

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|---|---------------------------------|
| JEFFREY BRANNON, | § | |
| | § | No. 581, 2008 |
| Defendant Below, | § | |
| Appellant, | § | Court Below—Superior Court |
| | § | of the State of Delaware in and |
| v. | § | for New Castle County |
| | § | |
| STATE OF DELAWARE, | § | |
| | § | |
| Plaintiff Below, | § | Cr. ID No. 0709017138 |
| Appellee. | § | |

Submitted: June 17, 2009

Decided: July 6, 2009

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 6th day of July 2009, upon consideration of the appellant’s brief filed pursuant to Supreme Court Rule 26(c), his attorney’s motion to withdraw, and the State’s response thereto, it appears to the Court that:

(1) After a Superior Court bench trial, the appellant, Jeffrey Brannon, was found guilty as charged of one count of Home Improvement Fraud. Brannon was sentenced to two years at Level V suspended for two years at Level II. This is Brannon’s direct appeal.

(2) On appeal, Brannon’s defense counsel (“Counsel”) has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review of a motion to withdraw and an accompanying brief under Rule 26(c) is

two-fold. First, the Court must be satisfied that Counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.¹ Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

(3) Counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. Counsel states that he provided Brannon with a copy of the motion to withdraw and the accompanying brief and appendix and advised Brannon that he had a right to supplement Counsel's presentation. Brannon did not submit any points for this Court's consideration. The State has responded to the position taken by Counsel and has moved to affirm the Superior Court's judgment.

(4) This Court has reviewed the record carefully and has concluded that Brannon's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that Brannon could not raise a meritorious claim in this appeal.

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

² *Id.*

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice